

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN RAMER,)	
)	
Plaintiff,)	Civil No. 04-6088-TC
)	
v.)	ORDER
)	
LINCOLN CITY AUTO WHOLESALE,)	
and JOHNNY DEAN GRAVES,)	
)	
Defendants.)	
_____)	

COFFIN, Magistrate Judge.

Presently before the court are plaintiff's motions for attorney fees (#46), for sanctions (#41), and for leave to file an amended complaint (#43).

When defendants failed, in the face of explicit court orders, to appear for a pre-trial conference (the latest in a string of absences during this litigation), the court indicated plaintiff could seek sanctions against them for their continued failures to appear. Plaintiff has now done so,

seeking, inter alia, the entry of an order that the facts as alleged in plaintiff's complaint be deemed established, an order striking defendant's answer to the claims, and an order awarding his reasonable fees incurred in attending the pretrial conference and preparing the motion for sanctions. That motion is granted.

Plaintiff further seeks an order granting his motion for fees incurred in attending the settlement conference of September 10, 2004 and the deposition of Johnny Graves on April 6, 2005, both of which defendants failed to appear at. Those fees total \$1,540.26. I find the fees to be reasonable and the award of fees justified as a sanction for defendants' failure to appear. Plaintiff's motion is therefore granted.

However, plaintiff's motion for leave to file an amended complaint is denied. While I agree that the final judgment entered in the case should reflect the more accurate calculation of damages included in the proposed amended complaint, I do not find it appropriate to add additional claims - including a claim for punitive damages - at this stage of the proceeding.

Defendants' answer to plaintiff's claims is stricken. The allegations in plaintiff's complaint are deemed established. Plaintiff is invited to file a motion for a default judgment with a proposed judgment reflecting a revised breakdown of damages based on the calculations described in the Affidavit of Charles Simmons (#45, at ¶ 3).

DATED this 11 day of July, 2005.



Thomas M. Coffin
United States Magistrate Judge